

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**UNITED STATES OF AMERICA,**

**- vs -**

**DAVID R. BERGSTEIN, *et al*,**

**Defendant.**

**In Re Grand Jury Subpoena (Gaynor &  
Umanoff LLP)**

Case No. 16-cr-746-PKC

**DECLARATION OF CORY STIGILE IN SUPPORT OF DEFENDANT  
DAVID BERGSTEIN'S MOTION TO QUASH POST-INDICTMENT  
GRAND JURY SUBPOENA**

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*Counsel to David Bergstein*

Dated: December 21, 2017

**DECLARATION OF CORY STIGILE**

I, Cory Stigile, hereby declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, as follows:

1. I am an attorney at the law firm Hochman Salkin Rettig Toscher & Perez, P.C. (the "Hochman Firm"), who has represented defendant David Bergstein ("Mr. Bergstein") as tax counsel. I submit this declaration in support of Mr. Bergstein's *Motion to Quash Grand Jury Subpoena* filed on December 21, 2017.

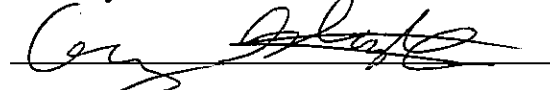
2. In connection with the Hochman Firm's legal representation of Mr. Bergstein, the Hochman Firm entered into a Kovel arrangement with Gaynor & Umanoff, LLP (the "Gaynor Firm").

3. On December 13, 2017, the Gaynor Firm received a grand jury subpoena, which it forwarded to me. A true and correct copy of that grand jury subpoena is attached hereto as Exhibit 1.

4. After receiving the grand jury subpoena, I contacted Special Agent James Kim of the Internal Revenue Service (who left his card with the Grand Jury Subpoena), to discuss an extension of time to respond to the subpoena for 30 days. SA Kim initially stated that he had no objection to an extension, but would need to check with the AUSA in charge of Mr. Bergstein's case, and then then handed the phone to an individual representing himself to be an Assistant United States Attorney out of the Southern District of New York office. I believe he stated his name was Edward Imperatore. The AUSA stated that the government would only agree to a brief extension, to January 3, 2018. After discussing further, the AUSA would agree only to a short extension to January 5, 2018.

I declare under the laws of the United States of America that the foregoing is true and correct.

Executed this 21<sup>st</sup> day of December, 2017, in Beverly Hills, California.

  
Cory Stigile

# **EXHIBIT 1**



U.S. Department of Justice

United States Attorney  
Southern District of New York

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

December 5, 2017

**BY ELECTRONIC MAIL**

Gaynor & Umanoff LLP  
c/o Robert Gosart, CPA  
6100 Center Drive Suite 950  
Los Angeles, CA  
Tel. 310-846-5770

**Re: Grand Jury Subpoena**

Please be advised that the accompanying grand jury subpoena has been issued in connection with an official criminal investigation of a suspected felony being conducted by a federal grand jury. The Government hereby requests that you voluntarily refrain from disclosing the existence of the subpoena to any third party. While you are under no obligation to comply with our request, we are requesting you not to make any disclosure in order to preserve the confidentiality of the investigation and because disclosure of the existence of this investigation might interfere with and impede the investigation.


If you intend to disclose the existence of this Grand Jury Subpoena request to a third party, please let me know before making any such disclosure.

Thank you for your cooperation in this matter.

Very truly yours,

JOON H. KIM  
Acting United States Attorney

By:

  
\_\_\_\_\_  
ROBERT ALLEN  
Assistant United States Attorney  
(212) 637-2216

**Grand Jury Subpoena**

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**United States District Court**  
**SOUTHERN DISTRICT OF NEW YORK**

Gaynor & Umanoff LLP  
c/o Robert Gosart, CPA  
6100 Center Drive Suite 950  
Los Angeles, CA  
Tel. 310-846-5770

**GREETINGS:**

WE COMMAND YOU that all and singular business and excuses being laid aside, you appear and attend before the GRAND JURY of the people of the United States for the Southern District of New York, at the United States Courthouse, 40 Foley Square, Room 220, in the Borough of Manhattan, City of New York, New York, in the Southern District of New York, at the following date, time and place:

Appearance Date: December 19, 2017

Appearance Time: 10:00 am

to testify and give evidence in regard to an alleged violation of:

15 U.S.C. §§ 78j(b), 78ff; 18 U.S.C. §§ 287, 371, 1028, 1028A, 1341, 1343, 1349, 1503, 1506

and not to depart the Grand Jury without leave thereof, or of the United States Attorney, and that you bring with you and produce at the above time and place the following:

**PLEASE SEE ATTACHED RIDER**

Failure to attend and produce any items hereby demanded will constitute contempt of court and will subject you to civil sanctions and criminal penalties, in addition to other penalties of the Law.

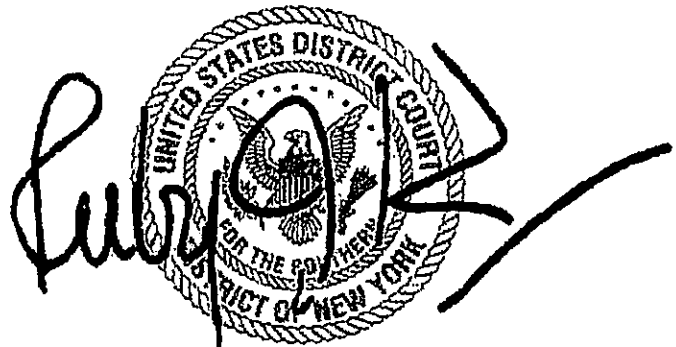
DATED: New York, New York  
December 5, 2017

**JR/RA**

JOON H. KIM  
*Acting United States Attorney for the  
Southern District of New York*

**Robert Allen**

ROBERT ALLEN  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
(212) 637-2216 (Tel.)  
Robert.Allen@usdoj.gov



**RIDER**

(Grand Jury Subpoena to Gaynor & Umanoff LLP, dated December 5, 2017)

Please provide (a) all federal and state tax returns for 2008 through 2016, including all attachments, including but not limited to all Form W2s and 1099s; (b) all documents, information, and workpapers used to prepare such tax returns; and (c) all Form W2s, 1099s, and K-1s for the period 2008 through 2016; and (d) all correspondence with the taxpayer, for:

**David Bergstein**  
**DOB: August 9, 1962**  
**SSN: 089-50-4989**

N.B: Personal appearance is not required if the requested records are (1) produced on or before the return date to: James Kim, Special Agent, Internal Revenue Service, Los Angeles Field Office; Tel. 949-389-4565; e-mail: james.kim@ci.irs.gov; and (2) accompanied by an executed copy of the attached Declaration of Custodian of Records.

PLEASE PRODUCE THE RECORDS IN ELECTRONIC FORMAT, IF POSSIBLE.

Declaration of Custodian of Records

Pursuant to 28 U.S.C. § 1746, I, the undersigned, hereby declare:

My name is \_\_\_\_\_.  
(name of declarant)

I am a United States citizen and I am over eighteen years of age. I am the custodian of records of the business named below, or I am otherwise qualified as a result of my position with the business named below to make this declaration.

I am in receipt of a Grand Jury Subpoena, dated December 5, 2017, and signed by Assistant United States Attorney Robert Allen, requesting specified records of the business named below. Pursuant to Rules 902(11) and 803(6) of the Federal Rules of Evidence, I hereby certify that the records provided herewith and in response to the Subpoena:

- (1) were made at or near the time of the occurrence of the matters set forth in the records, by, or from information transmitted by, a person with knowledge of those matters;
- (2) were kept in the course of regularly conducted business activity; and
- (3) were made by the regularly conducted business activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_.  
(date)

\_\_\_\_\_  
(signature of declarant)

\_\_\_\_\_  
(name and title of declarant)

\_\_\_\_\_  
(name of business)

\_\_\_\_\_  
(business address)

Definitions of terms used above:

As defined in Fed. R. Evid. 803(6), "record" includes a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses. The term, "business" as used in Fed. R. Evid. 803(6) and the above declaration includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.